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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/483,388	01/13/2000	Chun R. Xia	021756-015700US	8312
51206 7590 12/31/2007 TOWNSEND AND TOWNSEND AND CREW LLP TWO EMBARCADERO CENTER 8TH FLOOR SAN FRANCISCO, CA 94111-3834			EXAMINER POND, ROBERT M	
			ART UNIT 3625	PAPER NUMBER
			MAIL DATE 12/31/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

09/483,388

**Applicant(s)**

XIA ET AL.

**Examiner**

Robert M. Pond

**Art Unit**

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 45-59 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 45-59 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection.

Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114.

Applicant's submission filed on 13 October 2007 has been entered.

### ***Response to Amendment***

The Applicants amended claim 45, 50, 54, 58 and 59. Claims 1-44 are canceled. All pending claims 45-59 were examined in this non-final office action.

### ***Response to Arguments***

Applicant's arguments with respect to claims 45-59 have been considered but are moot in view of the new ground(s) of rejection. Chelliah was withdrawn.

Arguments based upon Chelliah are moot.

### ***Claim Objections***

1. Claim 49 is objected to because of the following informalities: Duplicate claim of claim 48. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**2. Claims 45-53, 58 and 59 are rejected under 35 USC 102(b) as being anticipated by Gerace (US 5,848,396).**

Gerace teaches all the limitations of claims 45-53, 58 and 59. For example, Gerace discloses a system and method of targeting appropriate audiences based on psychographic or behavioral profiles of end users using a web site. The psychographic profile is formed by recording computer activity and viewing habits of the end user. Content of categories of interest and display format in each category are revealed by the psychographic profile, based on user viewing of aggregate information. Using the profile (with or without additional user demographics), advertisements (objects as discussed below) are displayed to appropriately selected users. Based on regression analysis of recorded responses of a first set of users viewing the advertisements, the target user profile is refined. Viewing by and regression analysis of recorded responses of subsequent sets of users continually auto-targets and customizes ads for the optimal end user audience. See at least abstract; Fig. 1; Fig. 2; Fig. 3a-g; col. 1-3. Gerace further discloses:

- associating a marketing object container with a portion of a page of information to be displayed to the user, the marketing object container including information identifying a container capacity and at least one of a location and a size of the corresponding portion; each sponsor has one or more Ad Series Objects that belong to an Ad Package (i.e. object container); each Ad Series object provides an indication of whether a given advertisement is singly or serially displayed, the category of the information and the demographic group pre-requested by the sponsor to be shown the advertisement. See at least Fig. 3a (33b, 33c, 33d); col. 11, line 57-col. 12, line 28. Note: one or more Ad Series Objects determines the object container capacity. Page Display Objects defines the screen views transmitted and displayed to end users A Page object cross references a User Interface Object which specifies which Page Display object and which agate information (content and presentation) is appropriate for the current user. Page Data Objects hold the agate or other data to be displayed to the end user. Included are advertisements (objects themselves as noted above) which may be integrated into the agate data. See at least col. 7, lines 23-31. Preferably advertisements (objects) are positioned along the periphery (i.e. above, below, left or right of the agate data as defined by the respective Page Display Object. Please note: location and size. See at least col. 7, lines 31-37.

- associating a plurality of marketing objects with the marketing object container, each of the marketing objects able to be inserted into the marketing object container and including marketing object information able to be displayed in the portion of the page; as noted above. See at least col. 7, lines 23-37; col. 12, lines 22-28.
- selecting a plurality of marketing attributes to be associated with the marketing object container, the marketing attributes including at least one of timing and priority information for use in determining which of the plurality of marketing objects to be displayed to the user; the sponsor specifies in Ad Series Object 33c the required and/or preferred psychographic and/or demographic criteria and relative importance (e.g., weight) with respect to each criterion. Further, the sponsor specifies in Ad Series Object 33c a minimum total weight of criteria to be met by a user to qualify the user to view the ad series (please note: priority information). Also Ad Series Object 33c includes a reference to an Ad Package Object 33b (via an ad package identification), the hour of the day in which the ad/ad series is to start and end the days of the week on which the ad/ad series is to be displayed, and the beginning and ending dates and times of the ad/ad series. Please note: timing information. Also for serially displayed advertisements, Ad Series Object 33c indicates the maximum number of views in a series to be displayed per user and per user per day.

See at least col. 12, lines 27-41. See at least Fig. 3B for user attributes used by sponsors for targeting. See at least Appendix I-IV, col. 23-34.

- receiving a request from the user to display the page of information:

Upon an end user logging onto program 31 through common Internet protocol, program 31 generates an initial screen view (commonly known as the "Home Page") for display to the end user. During the user's first visit, the initial screen view provides menu selections of various agate information (e.g., stock market data, weather, sports, etc.) Upon user selection (using a click of a mouse or other input means) of a menu item, program 31 displays corresponding up-to-date information. Similarly, each time the user selects another menu item, program 31 generates and displays current agate information relating to that selection. See col. 4, lines 1-11.

- in response to the request, analyzing the plurality of marketing attributes and the plurality of marketing objects in order to select the marketing objects to be displayed in the corresponding portion of the page of information, the selected marketing objects having object attributes matching at least some of the match the selection of marketing attributes:  
uses agate information to determine the profile of a computer user, and in particular the behavioral or psychographic profile, as distinguished from the demographic profile, of a user. To accomplish this, the present

invention provides (i) a data assembly for displaying customized agate information to a computer user, and (ii) a tracking and profiling member for recording user activity with respect to agate information displayed through the data assembly. See at least col. 2, lines 1-11. Preferences with respect to color schemes, text size, shapes, and the like are recorded as part of the psychographic profile of a user. In turn, the psychographic profile enables the data assembly to customize presentation (format) of agate information, per user, for display to the user. See at least col. 2, lines 16-24. In the preferred embodiment, the data assembly displays agate information and/or advertisements (combined in a common screen view or separately in respective screen vies). The advertisements (stored in an advertisement module, for example) are displayed to users in accordance with the psychographic profile of the user. See at least col. 2, lines 24-29. In addition, a subroutine coupled to the module performs a regression analysis on the recorded history of users viewing the ads. The subroutine refines profiles of target users based on the regression analysis. Preferably, the regression analysis weights the relative importance of psychographic and/or demographic characteristics of users. As such, over time, the advertisements become better targeted to users having an interest in said information (content and presentation/format of ad), and hence the invention method and apparatus provides automatic



targeting of audiences (target users) and self-tailoring of target profiles.

See at least col. 2, lines 42-53.

- and in response to selecting the marketing objects to be displayed, dynamically generating a display for a user, in the portion of the page corresponding to the marketing object container, including marketing object information for a number of the selected marketing objects up to the container capacity of the marketing object container, dynamically generates objects to be displayed based on object as noted above.
- wherein the steps of associating the plurality of marketing objects with the marketing object container and selecting the plurality of marketing attributes to be associated with the marketing object container are able to be performed by an entity other than the provider of the page of information. One or more sponsors provide the marketing object content (advertisements/information). Please note: sponsor are entities other than the provider of the page of information. See at least col. 5, lines 15-25; col. 11, line 57-col. 13, line19.
- **Regarding claims 46 and 52:** wherein the selection of marketing attributes further includes relationship information defining relationships between at least some of the marketing objects. each Ad Object indicates to which series the advertisement belongs using an Ad Object ID and provides references to graphic, sound, and multimedia portions of an

advertisement. See at least col. 12, lines 42-52. Linking newly created Ad

Object to a price quote. See at least col. 19, lines 33-41.

- **Regarding claims 47 and 53:** wherein determining which of the selection of marketing objects to display to a user further includes examining a profile of the user. With respect to the advertisement module 75, program controller 79 obtains sponsor submitted advertisements from module 75 and generates a screen view formatted according to user preferences as determined from the psychographic profile in the user profiling member 73. That is, program controller 79 enables display of advertisements customized to the user, as to content and presentation (i.e., colors used, orientation on the screen, audio/video components, and the like). Program controller 79 obtains the content from the advertisement module 75 and the presentation details for the subject user from the user profiling member 73. See at least col. 5, lines 15-25; col. 6, lines 31-33; col. 18, lines 1-9.
- **Regarding claims 48, 49, and 51:** wherein the selection of marketing attributes further includes style information defining how the marketing objects are displayed to the user. With respect to the advertisement module 75, program controller 79 obtains sponsor submitted advertisements from module 75 and generates a screen view formatted according to user preferences as determined from the psychographic profile in the user profiling member 73. That is, program controller 79

enables display of advertisements customized to the user, as to content and presentation (i.e., colors used, orientation on the screen, audio/video components, and the like). Program controller 79 obtains the content from the advertisement module 75 and the presentation details for the subject user from the user profiling member 73. See at least col. 5, lines 15-25; col. 6, lines 31-33.

- **Regarding additional aspect of claim 50:**

tracks user behavior of the web site; uses agate information to determine the profile of a computer user, and in particular the behavioral or psychographic profile, as distinguished from the demographic profile, of a user. To accomplish this, the system and method provides (i) a data assembly for displaying customized agate information to a computer user, and (ii) a tracking and profiling member for recording user activity with respect to agate information displayed through the data assembly. Over time, the tracking and profiling member holds a history and/or pattern of user activity which in turn is interpreted as a user's habits and/or preferences. To that end, a psychographic profile is inferred from the recorded activities in the tracking and profiling member. See at least col. 2, lines 1-15.

- **Regarding aspects of claim 54:**

first party: a sponsor as noted above.

Second party: web site operator as noted above.

- **Regarding claim 57:** second party receives a fee for hosting. See at least col. 12, lines 64-67; col. 15, lines 22-24.
- **Regarding claims 58 and 59:** Rejection of claims 58 and 59 is based on similar rationale as noted above. Uses software programs. See at least Fig. 1 (27, 31) col. 3, lines 57-67.

### ***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

#### **3. Claims 55 and 56 are rejected under 35 USC 103(a) as being unpatentable over Gerace (US 5,848,396) in view of Sun (US 5,799,306).**

Gerace teaches all the above as noted under the 102(b) rejection and teaches i) a method of conducting business between one or more sponsors and an entity operating a web site server using object oriented programming techniques, ii) a sponsor as a first party and a web site server operated by another entity as a second party and iii) a first party submitting and Ad Series Object package to a second party server. Although Gerace mentions one web site providing a service, it would have been obvious to one of ordinary skill in the art at time the invention was made to ascertain a first party submitting same or similar Ad Series packages other web site operators (i.e. third parties), because the design incentives or market forces provided a reason to make an adaptation,


and the invention resulted from application of the prior knowledge in a predictable manner. Obviousness in view of the Supreme Court decision KSR International Co. vs. Teleflex Inc. Although Gerace does not mention replicating an Ad Series package to another web site, Sun teaches object oriented programming techniques and further teaches replicating an object group among a plurality of sites. See at least Figs. 3, 4a and 4b. it would have been obvious to one of ordinary skill in the art at time the invention was made to ascertain a first party submitting same or similar Ad Series packages other web site operators (i.e. third parties), because the design incentives or market forces provided a reason to make an adaptation, and the invention resulted from application of the prior knowledge in a predictable manner. Obviousness in view of the Supreme Court decision KSR International Co. vs. Teleflex Inc.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert M. Pond whose telephone number is 571-272-6760. The examiner can normally be reached on 8:30AM-5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Jeff Smith can be reached on 571-272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Robert M. Pond  
Primary Examiner  
December 23, 2007